
R590. Insurance Administration. (Effective 5-20-05)**R590-231. Workers' Compensation Market of Last Resort.****R590-231-1. Authority.**

This rule is promulgated pursuant to the following statutes:

- (1) 31A-19a-404, rulemaking authority for the recording and reporting of statistical data and experience rating data;
- (2) 31A-20-103, rulemaking authority to define lines and classes of insurance;
- (3) 31A-22-1010, rulemaking authority for reporting requirements for workers' compensation deductible policies; and
- (4) 31A-2-201, rulemaking authority to implement the provision of Title 31A.

R590-231-2. Findings and Interpretation.

(1) The commissioner finds that the legislature intended that the Workers Compensation Fund created under Title 31A, Chapter 33, was to provide workers' compensation insurance for Utah employers who are not able to obtain such insurance in the voluntary marketplace.

(2) Based upon this finding, the commissioner interprets Section 31A-22-1001 to mean that the Workers Compensation Fund, created under Title 31A, Chapter 33, is the insurer that provides workers' compensation insurance for the market of last resort in Utah.

R590-231-3. Purpose and Scope.

(1) The purpose of this rule, regarding the workers' compensation market of last resort, is to:

- (a) define the workers' compensation market of last resort;
- (b) provide eligibility criteria;
- (c) provide requirements for designation of existing insured employers; and
- (d) provide reporting requirements to the department and the designated rate service organization.

(2) This rule applies to the insurer for the market of last resort.

R590-231-4. Definitions.

(1) "Insurer for the market of last resort" means the Workers Compensation Fund.

(2) "Market of Last Resort" means the workers' compensation class of risk that cannot be placed with a voluntary workers' compensation insurer because of certain underwriting restrictions or class codes.

(3) "Voluntary workers' compensation insurer" means an admitted workers' compensation insurer actively seeking workers' compensation business in Utah, including the Workers Compensation Fund.

R590-231-5. Eligibility.

(1) To be eligible for the workers' compensation market of last resort, an employer must meet the underwriting and rating criteria established by the insurer for the market of last resort.

(2) An employer being insured by the insurer for the market of last resort remains eligible for the market of last resort until the employer obtains workers' compensation insurance from a voluntary workers' compensation insurer.

R590-231-6. Underwriting and Rating.

(1) The insurer for the market of last resort shall file, for that market of last resort, separate underwriting criteria, and:

- (a) separate rating criteria; or
- (b) a separate rating plan.

(2) Underwriting criteria for the market of last resort shall include:

- (a) premium size;
- (b) class code and risk characteristics; and
- (c) loss and payroll experience.

(3) Policy files for employers eligible for the market of last resort must include the underwriting criteria or follow underwriting protocols used for placement in the market of last resort.

R590-231-7. Designation and Reporting.

(1) Because the Workers Compensation Fund is a voluntary workers' compensation insurer, and the insurer for the market of last resort, the Workers Compensation Fund shall:

(a) Designate its existing insured employers as insured in the voluntary workers' compensation market or in the market of last resort; and

(b) Such designation can be done:

- (i) immediately; or
- (ii) as each employer renews; or
- (iii) at the time a new application is made for workers' compensation coverage.

(2) The insurer for the market of last resort shall report its data, including market of last resort data to the designated rate service organization. Such reporting shall be timely and consistent with the designated rate service organization's reporting requirements for all workers' compensation insurance carriers operating in Utah.

(3) Upon request, the insurer for the market of last resort shall make available to the Insurance Department, information about the market of last resort. Requested information may include the market of last resort data reported to the designated rate service organization.

R590-231-8. Enforcement Date.

The commissioner will begin enforcing the revised

provisions of this rule 45 days from the effective date of the rule.

R590-231-9. Severability.

If any provision or clause of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances shall not be affected.

KEY: workers compensation insurance

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31A-2-201

31A-19a-404

31A-20-103

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